vide for his children; and therefore, a promise made to him for their benefit, as in this instance, may well extend to them. As where a father was about to cut £1,000 worth of timber to raise a portion for his daughter, the heir promised him, that if he would forbear from felling the timber, he, the heir, would pay the daughter £1,000. The father did abstain, in consequence thereof, from cutting the timber, and died. It was held, that the contract with the father enured to the benefit of the daughter, was founded on a sufficient consideration, and that the daughter might sustain an action upon it against the heir, and recover. *Dutton* v. *Poole*, 1 *Vent.* 318; *Martyn* v. *Hind*, *Coop.* 443.

402 *It is now regarded as the well settled doctrine of the Court of Chancery in England, that if a person had, before his death, communicated his intention to make, or alter his will, and give a legacy, or portion of his property, to a certain individual, and the heir, or any one else, had interposed, and prevented the making or alteration of a will by a promise to pay the amount of the proposed legacy, to transfer the property, or to give anything else in lieu of it to the individual thus intended to be benefited; that the promise so made is binding, as being made on a consideration of loss to the individual; who may therefore enforce the specific performance of it in a Court of equity. The Statute of Frauds has been repeatedly urged as an objection against such promises, and the objection has always been overruled. The parent or friend of the individual intended to be benefited, being put at rest, and relying upon such promise, dies in perfect confidence that it will be fulfilled. But if the individual who has been so disappointed of an express provision by the deceased, could not have the promise enforced, his loss would be altogether irretrievable. The heir, or person making it, would be suffered to frustrate the intention of the deceased; to practise a fraud with perfect impunity; and the Statute of Frauds, if it were allowed to apply, would be made to operate for the protection instead of the prevention of fraud. *Chamberlaine* v. *Chamberlaine*, 2 *Freem.* 34; *Oldham* v. *Litchford*, 2 *Freem.* 284; *Thynn* v. *Thynn*, 1 *Vern.* 296; *Drakeford* v. *Wilk*, 3 *Atk.* 539; *Reech v. Kennegal*, 1 *Ves.* 124; *Dixon* v. *Olmius*, 1 *Cox*, 414; *Stickland* v. *Alridge*, 9 *Ves.* 519; *Mestaer* v. *Gillespie*, 11 *Ves.* 638; *Chamberlaine* v. *Agar*, 2 *Ves.* & *Bea.* 259.

This doctrine, which has been so long and so well established in England, has been finally and solemnly recognized by the Court of the last resort in this State. The case is to this effect: Charles Browne being seized of a considerable real estate in Maryland, declared his intention so to dispose of it, that if this eldest son and heir, James Browne, should inherit or succeed to the estate of Andrew Cochrane, in Scotland, then it should pass to and vest in his second son Basil Browne. Upon which James promised his